THE FULLERTON CASE.

Important Testimony—Initiation of the Conspiracy Proceedings that Led to the Present Prosecution.

Great Interest Manifested in the Proceedings—Debate on Objections Raised—Commissioner Osborn Again on the Stand.

The trial of the case of the United States against William Fullerton was resumed yesterday in the United States Circuit Court, before Judges Woodruff and Blatchford. The court opened at eleven o'clock in the morning, at which time every spot within the court room had its occupant, the crowd exceeding that which had gathered at the opening of the case on the previous day. Every possible accommodation, by direction of the Bench, was provided by Mr. Hamilton Keefe, the crier of the court, for the counsel employed, for the reporters of the press and the large numbers of the legal profession who crowded the space inside the bar. The greatest attention was paid to the proceedings throughout the session and, though the court room was densely crowded and some considerable crushing occurred from time to time, a remarkable degree of quiet and order prevailed.

Judges Woodruff and Blatchford having taken their seats, the presiding Judge notified the counsel on both sides that he would permit only one counsel on either side to proceed with the examination of witnesses, and to reply on interlocutory questions.

Mr. Stoughton hoped the Court would permit one counsel who might raise objections to any evidence offered to appoint his associate to speak upon the objections he might raise, if such a course should be deemed advisable.

This was granted.

BELKNAP'S COMMISSION OFFERED IN EVIDENCE.

Commissioner John A. Osborn was recalled as a witness for the prosecution, and being sworn testified that he was appointed a United States Commissioner in 1861.

Mr. Pierrepont offered the commission of Major Belknap, one of the defendants, appointing him a special agent of the Treasury in connection with the revenue department in this city, in evidence; but

Mr. C. A. Seward, for the defence, objected to its reception on the ground that it was irrelevant and that the law did not authorize the appointment of such officers as special agents.

Mr. Pierrepont claimed that he had a right to offer the commission, as the fifth section of the revenue laws, passed in July, 1866, provided that no revenue officer should receive other than his official salary for his services.

Mr. Stoughton would like to see the section on that point, contending that there was no count in the indictment which had any reference to the commission of Belknap or his duties, and as there was no law authorizing the appointment of special agents of the Treasury Department the document could not be legally admitted in evidence.

Mr. Tracy said the first and second counts of the indictment covered the point.

Mr. Stoughton then proceeded to argue against the admissibility of the document, but

Mr. Clarence A. Seward, in supporting the objection, argued that the question now raised went to the very foundation of the charge laid on the indictment. The evidence which has been offered has been stated as applicable to all the counts except the third. And as to the third they would show that, even admitting the allegations in the indictment, no offence was committed. He contended that Belknap was not such an officer as described in the indictment, and clothed with the power stated in the indictment. This being so, then no charge of conspiracy can be sustained. The statute says that if any collector, deputy collector, assessor, assistant assessor, inspector, district attorney, marshal or other officer, agent or person charged with the execution or supervision of the execution of any of the provisions of the act shall demand, accept or attempt to collect, directly or indirectly, as payment, gift or otherwise any sum of money or other property of value for the compromising, adjustment or settlement of any charge or complaint for any violation or alleged violation of any of the provisions of the act, except as provided by law, he shall be guilty of a misdemeanor. Now, our allegation is that the commission sought to be put in evidence conferred no such authority or power on Belknap. (Mr. Seward reviewed the counts, nine in number, in the indictment and the various provisions of the statute under which the counts were formed and construed.) The grand objection raised here is that the law appointing a special Treasury agent cannot be extended to cover the acts charged in the indictment. The law specifies, decides and prescribes the duties of that officer, and the extinction of those duties could not be the subject of judicial expansion. The law authorizes the Secretary of the Treasury to appoint a special agent of the Treasury Department, and when such officer has been appointed affixes to the officer the duties he will have to perform. The law prescribes those duties with such exactness and precision that it is impossible for the Court to give expansion to those duties or to suppose those officers could perform duties other than those so explicitly provided for by law. Belknap, he contended, had not acted in the matters charged against him under the authority of this commission, and consequently had not violated the statute referred to in the indictment.

Judge Woodruff referred counsel to section four of the act of June 30, 1864, which provides that the Secretary of the Treasury shall have authority to appoint first five and afterwards ten revenue agents, whose duties shall be under the direction of the Secretary of the Treasury to aid in the prevention, detection and punishment of frauds on the internal revenue, and in the enforcement and collection thereof, &c.

Mr. Seward—I have the statute before me, your Honor. We contend, your Honor, that Belknap did not have any such official duties to perform as are alleged in the indictment, and for the non-performance of which, it is alleged, he was paid $10,000 by Smith. There is no count in the indictment which alleges that Belknap demanded, accepted or received any compensation or reward in the performance of his official duties, and that he was guilty of extortion or wilful oppression in the discharge of such duties; because in fact Belknap had no such duties to perform and the attempt to clothe him here with powers under this commission as special agent is not warranted by law and seems to us grounds sufficient to exclude the commission as evidence.

Judge Woodruff, without requiring counsel for the government to respond, said—The Court are of opinion that the commission sufficiently shows that it was an appointment under the act of June, 1864 (section four), which authorizes the Secretary of the Treasury to appoint the revenue agents therein mentioned.

Admitted.

OBJECTION TO THE OATH OF OFFICE BY BELKNAP AS EVIDENCE.

Mr. Pierrepont then read and offered in evidence the official oath of office under the commission taken by Belknap before Commissioner Osborn.

Mr. Seward objected to the official oath being accepted as testimony, and called the attention of the Court to the twelfth United States statutes at large, page 502, which prescribes the oath—called the "iron-clad oath"—to be taken by all persons holding office under the federal government from the date of the passage of the act. Mr. Seward contended that this oath had never been legally taken by Belknap, and that, consequently, he could not have legally entered upon the office he held, and could not, therefore, have violated any laws under the act of appointment or committed the acts alleged in the indictment. He contended in this conviction that Commissioner Osborn, before whom Belknap took the iron-clad oath, had no authority to administer that oath to anybody, all such authority being exclusively vested in the United States Circuit Court or judges thereof. The oath, must, therefore, be inadmissible as evidence.

The Court reviewed the point raised, and said that it was an important question and one that should receive the best consideration of the Court, and that counsel should have an opportunity hereafter to discuss it on any motion they might think proper to raise.

EXAMINATION OF THE WITNESS RESUMED—IMPORTANT TESTIMONY.

Commissioner Osborn then proceeded to testify—On the 11th of June, the date of the oath, he held, in addition to the office of Commissioner, the office of Deputy Clerk of the District Court; was first appointed a Master in Chancery in 1861, which made him ex-officio United States Commissioner, and in 1866, to avoid any difficulty as to his duties, he was formally made a United States Commissioner; in the discharge of his duties followed the regular practice in swearing to affidavits; the practice was for the complainant to go to the District Attorney's office to make there his complaint; an affidavit would be there made, and the District Attorney or his assistant brought the party before the Commissioner, who, after conference with the District Attorney, would issue a warrant for the arrest of the party charged, which warrant would be placed in the hands of the Marshal for execution. When executed the Marshal brought the party arrested before the Commissioner, who admitted the party to bail if charged with a bailable offence, to appear for examination if the party desired it, or to appear for trial in court. That was the practice up to 1866.

The affidavit of one of the defendants, Jacob Dupuy, dated June 11, 1868, was identified by the witness and offered in evidence; believes it to be in Mr. Knox's handwriting; Mr. Knox is the law partner of the defendant Fullerton; at that time was slightly acquainted with Belknap. Affidavit handed to witness, who stated that he refused to issue a warrant on the affidavit; that he made, or directed to be made, the erasure there present; Mr. Knox brought the affidavit to him and desired a warrant for the arrest of Thomas J. Smith; Dupuy was also present; it was brought to him on the evening of the 11th of June; the first knowledge he had that Fullerton and Belknap were engaged in ferreting out frauds was on the 7th or 8th of June, when Mr. Knox told him that Mr. Fullerton wanted to see him on important business; went to the office of Mr. Fullerton; saw him there in company with Belknap, to whom he was introduced; Belknap told him he was employed as special agent by the government to ferret out frauds against the revenue, and that he had engaged Mr. Fullerton as special counsel; Mr. Fullerton wanted to consult with me about my powers as a Commissioner; he asked me whether I could issue a warrant without the knowledge of the District Attorney; I told him that Mr. Betts and myself had claimed the right; that they were independent Magistrates and that we could issue warrants without the cognizance or knowledge of the District Attorney; Mr. Fullerton then asked me if any one could serve my warrants besides a United States marshal; I said that the United States Marshal was the proper officer to execute United States warrants, unless it was shown to me that that officer was complicated or interested, when I would deputize a third party; the question then came up as to my authority to issue warrants on affidavits sworn to before an internal revenue officer; I replied that I should issue no more warrants on an affidavit sworn to before anybody but a judge of the court or a United States commissioner; Mr. Fullerton then explained that his object in putting these questions to me was that it was well known in Washington that a great many frauds were committed by officers derelict in the discharge of their duties; that the Secretary of the Treasury had no confidence in the then District Attorney; that he was lukewarm in the discharge of his duty and that the Secretary of the Treasury had specially authorized Belknap to come to this city and institute proceedings of the kind, and that he (Fullerton) had been employed as special counsel; he then asked me whether I would issue warrants under such circumstances; relying on Mr. Fullerton's statement and his connection with Belknap I replied that I would issue warrants whenever proper affidavits were laid before me; Mr. Fullerton then said to me if it would not be best to keep the matter secret for the present, when I replied that that was a matter of which he himself would be a better judge than I, as the evidence was being collected and accumulated by Belknap against all the collectors and against nearly all the distillers in the city; Mr. Fullerton further said that while he was special counsel in the case, Mr. Knox, his partner, would probably attend to all the work of drawing up affidavits and examining into the cases as they presented themselves, and he then suggested that as many of the complainants were well known to the distillers and the suspected government officers, it would be difficult for them to be brought before me in my own office, where they might be seen and detected passing in and out, and the object aimed at might be thus defeated; and he then asked me if I would have no objection to go to his office or to Belknap's to swear the parties to the complaints; I said it would be more proper and dignified for this to be done in the office here, yet, if it was necessary to the ends of justice, I would go to Belknap's office whenever sent for for this purpose; Mr. Fullerton replied that provisions would be made whenever necessary to have me sent for to swear the complainants to the affidavits, but whenever these precautions were not necessary the parties would be brought before me in my own office.

Q. Was anything said about the Marshal? A. Belknap, I think, said that he was sorry I could not deputize some one else to serve the warrants, as Marshal Murray was as bad as the rest.

Q. What else was said? A. In further answer to Mr. Fullerton's remark, I think, with reference to keeping the matter secret from the District Attorney, I said that as far as my investigations into criminal law went there were instances in which the necessity occurred on which warrants might be issued and the matter kept secret from the District Attorney, in order that the ends of justice might be served, and I presumed these were such, according to his statement in relation thereto, and I then agreed not inform the District Attorney if I was satisfied of the propriety and legality of the proceedings, as they should come before me, till the proper time for my doing so had arrived.

Q. Did Mr. Fullerton say anything else on this particular subject? A. He further stated that he did not want these proceedings to be made public for the present, as there were so many parties to be arrested; that the arrest of one if made public would prevent the arrest of the others; that therefore it would be best to keep the matter a secret, and when the proper time came he would notify the District Attorney of all that had been done in the matter.

THE THOMAS A. SMITH WARRANT—THE ARREST.

Affidavit of Dupuy against Thomas A. Smith was then identified by the Commissioner. The District Attorney then read the affidavit and offered it in evidence.

Q. Did you swear the party to that affidavit? A. Yes, the affidavit was sworn to on the 11th of June; on the 12th June Mr. Knox came to my office and asked me if I had the warrant ready on the affidavit sworn to the evening before; I said no, but that I would draw it up immediately; he said there was an immediate necessity for it, as he had learned that Smith was about to leave the city; I then set about preparing the warrant, and just after I had commenced Mr. Fullerton came to the office and asked for it; he said he wanted to take the warrant and I drew it up and gave it to him and he went away with it; I said to him as he was leaving that the warrant must be returned to the Marshal; I think his reply to this was, "All right;" the next knowledge I had of the warrant was about four o'clock the same afternoon, when Mr. Dyatt came to me and told me that his client, Smith, had been arrested; that he appeared for him and wished to see the affidavit; I told him that Smith had not yet been brought before me; he asked me the nature of the charge and the bail I would require; I told him the bail would be $5,000; Mr. Fullerton then came in and said, "Osborn, I understand that Smith has been arrested;" I said I had just been told so by Mr. Dyatt; I then left for my home; that same evening while I was at dinner Mr. Fullerton came to my house and stated to me that they were coming up to bail Smith; that Smith was very much frightened; that he was a very timid man; that he took pity on him and wanted him bailed, and that he had come to me for the purpose of assuring me that the person who was to become his surety was a responsible party, James C. Gulick; I then prepared a bail bond; Mr. Fullerton, in the meantime, said that Smith knew a great deal; that he could be of great service to the government if he would only squeal, and he thought he would; that he wanted to make use of him in these proceedings under these circumstances; and, as I told Mr. Fullerton that I recognized him as District Attorney in these proceedings, I reduced the bail to $1,000: while we were speaking a carriage drove up and Daniel C. Birdsall, James C. Gulick and Thomas A. Smith came out of it and entered the house; Birdsall said he was counsel for Smith; the bond was then signed; I administered the oath to Gulick; I asked Birdsall what day did he want fixed for the examination, and he replied that he would waive an examination for the present; I then said that I would take the bond with me to the office in the morning and have it filed with the clerk; the three parties then went out, re-entered the carriage and drove away, Mr. Fullerton going off alone.

At this stage the court adjourned till eleven o'clock this morning, Judge Woodruff giving the usual caution to the jurors not to permit themselves to converse with any persons on the subject of the trial.

THE LATE EMBEZZLEMENT BY A DEPUTY COLLECTOR.

Nothing additional has been ascertained with regard to the embezzlement of $40,000 of the funds of Collector McHarg's office by the late Deputy John H. Phillips. The sudden disappearance of Mr. Phillips and the discovery of the abstraction of the funds of the office, the one in a manner accounting for the other, took the friends of the absentee with great surprise. There was nothing in his way of living at home or abroad to indicate that he was exceeding in his expenditures his proper income. He had been always looked upon as a strictly upright and conscientious young man, zealous in the discharge of his duties, and always regularly at his post. He was an excellent penman, an accomplished mathematician, and by his activity and strict attention to his duties gained the confidence of the Collector, Mr. Hoxie, who gave him a good position. When the latter was succeeded by Lewis J. Kirk Phillips was found to be so valuable that he was appointed Deputy Collector. He had by this time made such a character for himself that it was thought his chances for appointment to the Collectorship were such as to give him and his friends hopes that he would succeed to that important office. On Mr. McHarg's appointment, however, Phillips was so highly recommended by Mr. Kirk that the new Collector concluded to retain him in his responsible position. A few months ago it was noticed in Washington that monthly report No. 76 failed to come from the Fifth district, and that errors existed in the stamp account. Instructions were sent to Supervisor Dutcher about two weeks ago to examine and report upon the account in question. The instructions were fully carried out, and on Monday of last week Collector McHarg received a telegram summoning him to Washington. He had an interview with Commissioner Delano, and returned on Wednesday. The result was that Supervisor Dutcher received instructions to examine Phillips' accounts. This duty was at once entered upon, when it was ascertained that certain defalcations existed therein that would probably reach $40,000. A charge was made on these premises against Phillips before Commissioner Betts, and a warrant was issued for his arrest. But it was too late—the bird had flown, and was then on his flight to England, where, no doubt, he will be received by an order for his arrest. The probabilities are that the next news we shall hear of the runaway will be of his capture and extradition to answer the charges now preferred against him in the United States courts.

A TAR BURNER ON THE BENCH.—The Raleigh (N. C.) *Sentinel* relates the following incident as having recently occurred at a court meeting in Warren county, Judge Watts presiding:—Junius Garland (colored) remarked to the negroes, as his Honor walked into the Court House, "There goes Greasy Sam; he can't be much of a judge, for he don't look like it. I travelled with Young Roanoke, in Martin county, where the judge lives; he weren't counted much of a lawyer; he was a tar burner that kept hounds to ketch runaway negroes."

THE COURTS.

Another Whiskey Raid—A Stray Treasury Check—Suit Against a City Railway Company—An Incident of the Road—A Smashed Up Wagon—Charge of False Imprisonment—Judge Bedford's Charge to the Grand Jury.

UNITED STATES COMMISSIONERS' COURT.

More of the Whiskey Raid.

Before Commissioner Betts.

The United States vs. S. L. Stanley.—The defendant is a member of the firm of H. Webster & Co., and is charged with making a withdrawal of a large quantity of whiskey upon which no tax was paid. The accused was arrested on the affidavit of Collector Joshua F. Bailey, which sets forth as follows:—

Southern District of New York, ss.:—Joshua F. Bailey, being duly sworn, says that he is the Collector of Internal Revenue for the Thirty-second district of New York; deponent further says that he has examined the books of said office and has found that on the 4th day of August, 1868, the firm of H. Webster & Co., of which S. L. Stanley is a partner, made a withdrawal of 3.5 barrels of whiskey, paying tax thereon on a gauge representing the said whiskey to amount to 11,735¾ gallons; deponent further says that on the 19th of said month said firm made a like entry of 2,053¾ gallons. Deponent further says, from information and belief, that both of said entries made by said Webster & Co. as aforesaid were false and fraudulent, and that the grounds of deponent's information and belief are certain statements made to deponent by certain persons cognizant of the said fraudulent transaction, and which deponent will produce as witnesses of said facts. Deponent further says on information as aforesaid that said Stanley was the person who, acting for said firm of Webster & Co., was the one by whom said false and fraudulent transaction were made. Deponent from information as aforesaid did give certain sums of money to an officer of the government of the United States to induce said officer to connive at a fraud on the revenue of the United States, and did give certain sums of money as a present, reward or bribe to said officer.

Mr. Stanley was brought before Commissioner Betts and gave $5,000 bail to appear for examination.

The Mistaken Treasury Note Case—Mr. Deyo Honorably Discharged.

Before Commissioner Shields.

The United States vs. Lucas H. Deyo.—The defendant is charged with having fraudulently obtained the sum of eighty dollars on a Treasury note payable at the Sub-Treasury to the order of one J. H. Titus. From the evidence it appeared that Mr. Titus, who is a resident of Dutchess county, was expecting a check from the Treasury Department for services during the war, and when a letter containing a check for eighty dollars came to him in the regular way through mail he sent it to his friend Mr. Deyo, the defendant, to have it cashed for him. It turned out, however, that the letter and remittance were not intended for him, but for another Mr. Titus, also a resident of Dutchess county. On the examination it appeared that the defendant had acted in good faith in the matter and without any intent to defraud. It was yesterday arranged that he should pay back the eighty dollars to the Sub-Treasury which he had unwittingly drawn from it and that the charge be dismissed. Commissioner Shields accepted the arrangement as to the repayment and, believing that Mr. Deyo had acted uprightly in the matter and only as the agent of a friend, dismissed the complaint.

SUPREME COURT—CIRCUIT—PART I.

Action Against a City Railroad Company.

Before Judge Cardozo.

Robert Hennessey vs. The Central Park and North and East River Railroad Company.—This was an action to recover $2,500 damages for injuries sustained by plaintiff in consequence of the alleged negligence on the part of the defendant. It appeared that in September, 1867, the plaintiff, a little boy, was run over by one of defendant's cars at the corner of First avenue and Twenty-fifth street, and had his hand crushed and was otherwise injured. The complaint alleged that the affair occurred owing to the carelessness of the driver. The defence averred contributory negligence on the part of the plaintiff.

The jury returned a verdict for the defendant.

SUPERIOR COURT—TRIAL TERM—PART I.

On the Road—Light Wagon Smash-up.

Before Chief Justice Barbour and a Jury.

Bernard Lavin vs. Charles Doherty.—From the facts developed in this case it appears that the plaintiff was driving in a light wagon on the Coney Island road, in company with his wife and child. The defendant was driving behind him and, as is alleged, through carelessness and recklessness, run into the plaintiff's wagon, upsetting it and throwing out and injuring the plaintiff and his wife and child, for which he claimed $1,000 damages. The defence set up was that the horse he was driving was a "long stepper," in consequence of which the defendant was compelled to lengthen his harness; that the horse broke the leather of the breeching, which caused the whiffletree to fall at his heels; that this had the effect of causing the horse to start and run away, and that in order to stop him and avoid the loss of his (defendant's) own life he drove the horse against the plaintiff's wagon.

Judge Barbour held that the facts detailed would not sustain the allegation of careless or reckless driving, and he, therefore, dismissed the complaint.

COMMON PLEAS—TRIAL TERM—PART I.

The Bishop False Imprisonment Case.

Before Judge Van Brunt and a Jury.

Eleanor P. Bishop vs. Robert E. Jones & Co.—This case was continued yesterday. The clerk of Jones & Co. who sold the goods to Mrs. Bishop was placed on the stand by defendants' counsel and contradicted Mrs. Bishop in some material points. Mr. Robert E. Jones, one of the defendants, also flatly contradicted her testimony. Several dry goods merchants testified to Mrs. Bishop having bought goods at their establishments, which were not delivered in consequence of Mr. Bishop refusing to pay for them. The case will be summed up this morning.

MARINE COURT.

Administrator's Suits to Recover on Notes Belonging to the Estate of a Deceased Person—Important Decision.

Before Judge Gross.

March et al. vs. Blake, Same against Ellis & Clawson.—These two suits are brought by the plaintiffs as administrators of one Henry M. Weed, deceased, to recover from the defendants the amount thereof. The making of the notes is admitted, and defendants claim that they were paid. The plaintiffs having rested their case the defendants introduced as a witness one Vermilye, who testified that the notes in question were made by the defendants and given to him (the witness) to use the proceeds thereof to his own benefit; that he obtained the money therefor from Henry Weed, deceased, of whose estate the plaintiffs are the administrators; that when the notes became due and payable he with his own money paid the amount of the notes to the deceased. To the admission of this evidence the plaintiffs' counsel objected. Under section 399 of the Code, as amended by laws of 1869, I am satisfied that this evidence of payment of the notes by Vermilye to the deceased in his lifetime cannot be admitted. That section declares that "No party to any action * * * nor any person interested in the event thereof * * * shall be examined as a witness in regard to any personal transactions or communications between such witness and a person at the time of such examination deceased, * * * against the executor, administrator of such deceased person, &c." The evidence discloses the fact that the defendants made their notes for the benefit of Vermilye, loaned them to him, and that they were discounted by the deceased at the request of Vermilye; he received and used the proceeds thereof; and it is attempted to be proved by Vermilye that he paid those notes to the deceased in his lifetime. I am satisfied that Vermilye is interested in the event of the action, for which reason I must exclude the evidence sought to be introduced.

Judgment is therefore rendered in each suit in favor of plaintiffs for the amount of the notes, with interest.

COURT OF GENERAL SESSIONS.

Empanelling of the Grand Jury—Judge Bedford's Charge.

At the opening of the court yesterday the Grand Jury were empanelled and Mr. Henry S. Yerbell was selected to act as foreman. Judge Bedford charged the jury as follows:—

MR. FOREMAN AND GENTLEMEN OF THE GRAND JURY—By the simple fulfilment of the solemn oath which has just been administered to each and all of you, you will at once successfully and faithfully discharge the sacred duties and great responsibilities devolving upon you. The statute makes it incumbent upon me to direct your attention especially to the Excise, Usury, Lottery and Election laws; also to the laws against the taking of illegal fees by public officers and to an act passed March 8, 1860, to prevent frauds in the sale of tickets upon vessels. It is my duty to inform you that if you find an indictment against a person for a felony the law does not permit you to disclose the fact, except to the Court and District Attorney, until after such person shall have been arrested. If you do, remember, you will be guilty of a misdemeanor. With these remarks I will cause to be placed in your hands a brief for grand jurors, which will prove a faithful guide for you in the performance of your duties. Gentlemen, you may now retire.

ALLEGED BURGLARY.

John Doyle was tried upon a charge of burglariously entering the residence of William Fschwetzke, in Madison avenue, at noon on the 2d of February. The proprietor was sitting at the basement window when the accused entered, who, upon seeing him, ran. He was pursued and caught concealed in a coal cellar of an unfinished building. A number of witnesses were called by Mr. Spencer to prove the prisoner's good character, and Doyle himself swore that he went there to see a girl. The jury could not agree upon a verdict, and as there were only a few jurors in attendance the City Judge discharged them from the further consideration of the case, and instructed the Clerk to fine the absentees twenty-five dollars each.

ALLEGED OUTRAGE.

Thos. Manes was placed upon trial jointly indicted with a boy named Daly, charged with perpetrating an outrage upon the person of Mary Griffiths, on the 16th of January, at 504 Seventeenth street. She swore that a crowd of young men broke into the house and that the prisoner committed the crime charged in the indictment. The veracity of the complaining witness was shaken by testimony, and as it was admitted that the accused had a good character the jury returned a verdict of not guilty.

A DEADLOCK IN THE POLICE BOARD.

The Assassination Canard—Captain Burden the Bone of Contention—Effort to Bring Him to Trial, but it "Can't be Did."

The demoralization resulting from partisanship is well illustrated in the course pursued by the Board of Police Commissioners in the inquiry as to the origin of the story published in the evening papers of February 5, of a plot discovered to assassinate Prince Arthur at the house of E. W. Stoughton, on Fifth avenue.

The circumstances as elicited by the trial, to be referred to hereafter, and the investigations of Superintendent Kennedy are these:—On the night of the 4th ult. four men were arrested in the locality of Mr. Stoughton's house, after threatening and assaulting the police. They were arraigned before Captain Henry Burden, of the Twenty-ninth precinct, and locked up. On the following morning Sergeant Taylor at the station house informed a reporter of the arrests, and stated that there was a supposition that the men, who were acting in a suspicious manner, had designs against the Prince; but, as there was no positive evidence, they were sent to court on the charge of assault and battery and disorderly conduct. The reporter took their names and wrote for the HERALD the facts obtained, and threw discredit upon the supposition that they had evil designs. Captain Burden, learning that one reporter had the particulars, hurried to Jefferson Market, and told the story, with many additions, to John A. Halton and other reporters. To the former he confided the fact that one of the men admitted to officer Carpenter that they intended to assassinate the Prince. He also informed the reporters that they would be "beaten" unless they wrote it up. Carpenter was interviewed and confirmed his superior's statements. The Superintendent took Burden to task for his neglect to make a special report, when Burden stultified himself by declaring that the statements published were false, and he officially pronounced it "all bosh." It came to the ears of the Board and Mr. Kennedy that Burden had promulgated the story and an investigation was ordered. Mr. Kennedy, in writing, asked J. A. Halton, J. E. P. Doyle, A. O. McGrew, W. F. Quinlan and other reporters to state what they knew of the case. Doyle made answer by affidavit, stating that he obtained information from Sergeant Taylor, who gave it in a guarded manner; that Burden, after his official denial, admitted that he did not know but charges might be preferred because he had not made a report, and that he gave to Halton what purported to be Murphy's admissions to Carpenter that their intention was assassination. Halton bore testimony to the correctness of an interview had with Burden, in which Burden gave him the particulars for publication. McGrew testified that after Burden showed him his denunciation of it as "all bosh," he admitted to him that he had given the particulars to the Jefferson Market reporters, and endeavored to convey the impression to him that the denial had been forced from him and that the actual facts were as published. Mr. Quinlan bore testimony to the fact that Burden, at Jefferson Market, with one of the papers containing the particulars in his hand, gave him (Quinlan) and several others to understand that the facts were as published.

On this Mr. Kennedy made his report submitting the evidence, but without recommendations. Mr. Brennan, Mr. Bosworth and the Superintendent were anxious to place Burden on trial, but in the Board the republicans—Smith and Manierre—fought desperately for Burden and voted against it, well knowing that it would put him in an ugly light. They did consent, however, to place Taylor and Carpenter on trial. The trial showed that these officers were not so much to blame as their captain, who laid the egg from which Carpenter and he jointly hatched the canard. Messrs. Bosworth and Brennan made other efforts to bring Burden to trial, but the partisans—Smith and Manierre—knowing if he were arraigned upon such overwhelming evidence he would be forever ruined in the eyes of the community, voted "No." A deadlock has prevailed ever since, two Commissioners being anxious to vindicate the fame of the force, by a trial, and the other two endeavoring to save a man whose whole record shows gross ignorance and incompetency for the position he has been elevated to. Despairing of being able to bring the alleged offender to justice, President Bosworth yesterday placed at the disposal of the press all the papers in the case, the substance of which is given above.

THE FIRE MARSHAL'S MONTHLY BLAZE.

The Fire Marshal reports that during the month of February there were seventy-five fires in New York; that of these nineteen were caused by carelessness, four by incendiaries, five by overheated stoves, ten by kerosene, four by defective flues, eight by unknown causes, and the rest by accidents. There were three fires where the loss exceeded $50,000, four with the loss between $10,000 and $50,000, six between $5,000 and $10,000 and twenty-one between $1,000 and $5,000. The loss on buildings was $204,500; on stock, $524,350. The insurance on buildings was $378,500; on stock, $896,000. The following is a comparative statement for the month of February in 1869 and 1870:—

	1869.	1870.
No. of fires	74	75
Loss on buildings	$90,310	$204,500
Loss on stock	316,166	524,350
Insurance on buildings	284,850	378,500
Insurance on stock	557,400	896,500
Total loss	406,476	728,850
Total insurance	842,250	1,275,000

Allen G. Taylor, of 512 Grand street, was tried, convicted and sentenced for arson, for setting fire to his premises, and is now serving out his time of fifteen years in the State Prison. Joseph Corr, charged with setting fire to premises 314 Fourth avenue, was held to bail by Justice Cox in the sum of $10,000. Assistant Fire Marshal Keady, of Brooklyn, reports fourteen fires during the month. Four were caused by stoves and heaters, two by explosions, one from spontaneous combustion of rags, the rest from a variety of causes. There were two fires where the loss was between $5,000 and $10,000, one between $1,000 and $5,000, and five between $100 and $1,000. The total loss was $24,640; total insurance $30,200. The number of fires was fifty per cent less than those of the previous month. Mr. Keady censures the owners of the chemical works corner of Bartlett street and Harrison avenue for negligence and concealing important facts from the department. There were twenty-seven fires in February, 1869, as against fourteen in February, 1870, and the total loss was $93,050 as against $24,640 this year.

THE SEAMEN'S STRIKE.

No Trouble or Embarrassment Apprehended—The Rates of Wages.

The strike among the seamen employed by several of the steamship lines running from this port on the coastwise trade, though it has proved of temporary embarrassment to the lines where the sailors declined to work on reduced wages, has now ceased to annoy the vessel owners. The feeling among the officers and men is, that it was a petty meanness to make a reduction which to the lines amounts to comparatively nothing, while to the seamen who have families or any domestic dependents the loss is very serious. The movement was begun because of the decline in gold, and may be regarded as one of the first disastrous effects of an immediate resumption of specie payments. As will be seen by the following list of wages, there is no economy in the proceeding:—

PAY OF SEAMEN.

	Old Rates, Per Month.	New Rates, Per Month.
Seamen	$40	$30
Firemen	50	40
Coal passers	40	30

This table indicates that the vessel owners have cut down the wages of their deck hands and those of the employes of the engine room by ten dollars per month. When the movement was first made known all the members of the Seamen's Society immediately declined to ship. No great trouble has been experienced in getting new hands, as there are plenty of able seamen in the port out of employment. The Mariposa, of the Cromwell line of New Orleans steamers, only ships four seamen, and the sum saved amounts to the magnificent capital of forty dollars. It can hardly be pretended that this is a necessary stroke of economy. This is the way the men feel, and from their statements and also from the statements of the officers, there is no doubt but that the movement will greatly jeopardize the efficiency of the mercantile marine. No good can come from it any way; but, like all violent changes in wages, when the persons most interested are the employed more than the employers, capital will for the time triumph. The lines engaged in the combination are the Merchants' line, the Black Star line, the Mobile line, the Livingston & Fox line and the Southern line. Complaint is made that the strikers have not acted in concert, but that seamen have been constantly shipping at reduced wages when they belonged to the society at the same time.

CAT AND DOG FENIANISM.

The Quarrel Between the "President" and "Senate."

How the Money Goes—A Book of Tactics Upside Down—"Rifling" the Muskets and the Pockets of the Faithful—What American-Canadian Fenianism Amounts To.

In this country, and all the world over, the spirit of the Irish is as obstinately buoyant as a cork and never tired of soaring aloft among impossible projects when it is not butting its head against some stone wall. If, however, it could be induced to lay aside its green spectacles here, just now, and mount a pair of ordinary, common sense glasses, that would present things in their true colors, we should have much more confidence in its ability to aid its restless and unhappy country. Except at elections, the Irish do not appear to be effective in the aggregate in any project relating to the independence of their country. For, so far, in and through the House of Commons only have they realized any benefits in this direction. All their efforts at revolution have been abortive, both since and before the union, although it cannot be denied that it was through the standing threat of revolution uttered by the Fenians, properly so-called, that the Irish Church establishment was abolished and that the English government were compelled to introduce their Tenant Right bill.

The revolutionary body in Ireland cannot be held responsible for the absurdities of the played out Irish politicians here who have assumed their name and pretend to act for them. The Roberts-Sweeney-Meehan-O'Neill party in this country has been a sham and a humbug from the start. It paralyzed the efforts of the brave men who are now in English prisons; misled its too confident followers, and by raising the ridiculous cry of "War on Canada" worked incalculable mischief to the Irish cause. But it is to be hoped that in so far as the influence of this bastard Fenianism is concerned the events which have already transpired and which are still transpiring in this city, at No. 10 West Fourth street, will open the eyes of hitherto gullible thousands to the fact that they have nothing to hope from this institution. For many years it has been drawing upon the impoverished resources of the poorer Irish in our midst, on the plea of putting an army into the field for the purpose of measuring its strength with a nation second only to that of the United States, and whose resources by land and by sea are all but inexhaustible; and what has been the result? A squandering of wealth untold, a raid upon Canada by a brave and misguided officer and handful of men, who barely escaped annihilation; and now a flare-up at headquarters here, in which the acting Secretary of Civil Affairs shoots down, as alleged, the acting Secretary of War in the public street; and in addition, a rupture between the Senate and the President of the Brotherhood which admits of no accommodation.

The management of the organization during the last year has been of the most frightful character in relation to its funds. In the first place we find General Joseph Smolenski brought from Washington at $150 per month to give the benefit of his experience to the War Department and to prepare a work on military tactics. The General wrote the work, and it was published upside down. No one could make head or tail of it when it appeared; and no wonder, as it had never been corrected until it was ready for delivery. It had been stereotyped; and now began the alteration and destruction of the plates to the tune of many hundreds of dollars and a loss of time on the part of the President, Colonel Byron and Major O'Leary, who were for weeks engaged in trying to get the book in shipshape, but in vain. The getting up of this book was placed entirely in the hands of the Secretary of War, with what result is well known. Smolenski was savage, having sent a copy of the work to the President of the United States before it was discovered that it had been all but published in pi. At this point it was ascertained that the general who had commanded the Polish contingent at the Crimea, and who has been recently decorated for able military services by the Sultan of Turkey, was not a distinguished soldier, &c., and so his services and book were dispensed with at an expense of thousands of dollars of the organization.

But yet a more important inroad than this has been made upon the treasury of the brotherhood in relation to the purchase of a specific amount of arms and the altering of simple muskets into breech-loaders. This, under the estimate of the Secretary of War, was to cost $25,000—the alteration of the guns to be made at $8 each, which is said to be two dollars in excess of what it ought to be, although it afterwards turned out that between thirteen and fourteen dollars were paid. For this service no satisfactory vouchers have been produced. Everything appears to have been done by the rule of thumb—that is, no clear details can be found bearing upon the transactions in this relation. This service had been performed up to the appointment of Colonel Kirwan by the late Secretary of War who has been but just suspended. The manner or circumstances of its performance had been a source of dreadful annoyance to all the officers at 10 West Fourth street, as it gave the Secretary of War the whole control of the funds of the brotherhood, which he handled in a manner so lively as scarcely ever to leave a penny in the hands of the Treasurer. The result of this, as just discovered, has been that on comparing notes it has been found that the $25,000 which was to have covered the whole expense of altering the arms, &c., turns up, to the utter dismay of O'Neill and others, in the shape of $60,000, which, added to the Smolenski blunder and the salaries of the different officers, leaves the organization in the vocative.

When the Senate met recently at 10 West Fourth street all this was brought under discussion, but more particularly the wording of O'Neill's late call for a Congress, in which he plainly accuses the Senators, or some of them, as simply mere selfish politicians whose patriotism is their pockets. This gave mortal offence; but as the President had a very large majority of the circles on his side he was determined to pitch the Senate overboard, and would have done it had not the shooting down of the Secretary of War induced him to postpone the Congress, as that gentleman had already handled so much of the funds of the brotherhood and as his presence at the Congress was indispensable. Up to this period the Senate had been vigorously urging the President to consent to the call being remanded and that the next Congress should assemble at Chicago. O'Neill, understanding thoroughly that their design was to gain time so that they might be able to pack this latter Congress, stood resolutely out against them, as he was already well aware that some of the delegates appointed to the Congress which was to have opened here yesterday had instructions from their circles to stick by him and let the Senate take care of themselves. This, however, the Senate had done already; for, as will be perceived by the annexed document, they were prepared to ignore the authority of the President altogether and take matters into their own hands had not that assassin-like shot been fired, which induced O'Neill to alter his views and consent to call the congress at Chicago for the 11th of April—

NEW YORK, Feb. 28, 1870.

TO THE OFFICERS AND MEMBERS OF THE F. B.:—

BROTHERS—It must have been apparent to the dullest understanding that the late numerous and conflicting orders emanating from your executive, were a certain and infallible indication that the affairs of the Fenian Brotherhood were not being conducted under the laws prescribed by you for its guidance and government. The attack made by your Executive upon a co-ordinate part of your governing body must have given you cause of regret (which we participate in) that these matters were not deferred to the meeting of your Congress, and thereby save another exhibition of our weakness before the public. We had hoped that good sense and a more fraternal feeling would influence every member of your organization, and we wished to be spared the disgrace of our sacred cause being again made the subject of a newspaper war.

For the last six days your Senate has been in session here, and has alternately begged and prayed that your Executive would consent to some stated time and place for the calling of the Eighth General Congress mutually agreeable and giving the circles time enough to be fully and fairly represented. The action then and since had by your Senate will be laid before you in full at your approaching Congress, and it will be for you to say whether or not its action was patriotic or the reverse.

For the discharge of his duty one of our body—the truest, the best—P. J. Meehan, has been stricken down in the midst of his usefulness by the hand of an assassin, while another is hourly threatened with a like penalty for his fidelity as the secretary of your treasury.

In conclusion, after a full and complete examination of the requirements and effectiveness of your organization, we say to you you are not in a position at present to meet the demands made upon you; when you are we will not be slow to say so. We feel we but represent your wishes when we say "We will fight when prepared, and not before."

The Senate will notify you in a few days of the time and place fixed on for holding the eighth General Congress. Until then send no delegates to any congress at present called.

P. S.—Since the adoption of the above address the President and Senate of the Fenian Brotherhood have decided that the eighth General Congress shall be held in Chicago, on Monday, the 11th day of April, at twelve o'clock noon.

JAMES GIBBONS, President Senate F. B.

J. C. O'BRIEN, Secretary Senate F. B.

There is evidence which need scarcely be recounted here that the above circular had been written before the gentleman alluded to was fired at, although reference is made to the murderous attack. The fact is, this unfortunate shot fortunately saved the President and Senate from an open passage at arms before the public, and the Senate obviously slipped it in, together with the concession of O'Neill, at the eleventh hour, as may be seen from the manifesto published the next day by order of the President himself.

That O'Neill is an honest man and has, as is well known, beggared himself in this hopeless cause, and that some of the Senate are more dupes than knaves, is true; but that is not the main point. The question is, will the Irish continue to support and prolong, out of their hard earnings, a cause so replete with failure and disgrace—just now, at least? A single glance at the circular of the Senate will show how the whole case stands and how wide the gulf that yawns between them and the President. There is no bridging it. O'Neill has brought them to book. At their last Congress they passed a resolution to fight at an early day, and the President was pushing this resolution so fast ahead that it did not seem to suit some of their office-holding views—more than one of them perceiving that once the Fenians took the field their occupation, like that of Othello, was gone. Here is where there was a most serious difficulty. The Senate, as may be perceived from their circular, wanted to lie on their oars for an indefinite period and draw their pay when on duty, while O'Neill was for taking the field at once and bringing matters to a crisis.

The fact is, this last *exposé* and disgraceful attempt at assassination will tend to demoralize the whole organization; nor will the Chicago Congress mend the matter. However, O'Neill has the whip hand of the Senate and his enemies, because he has control of the arms and munitions of war, which, it is said, he shipped across the border in small quantities during the latter part of the summer and fall, and placed in the hands of his trusty agent in the New Dominion. In this relation he has the ball at his own foot, and will no doubt get plenty of enthusiasts to help him to kick it, if needs be. However, there is one thing of which he may rest assured, and that is, should he and his men by any chance escape the vigilance of our government and make an incursion into the territories of our neighbors again he can never return to these shores other than as a conqueror. Let him and those who may be reckless enough to join any expedition he projects in this connection be certain beyond any peradventure that the citizens of this republic are not to be led into the periodical endorsement of failures which may tend to jeopardize their foreign relations without benefiting the cause of any oppressed people.

TEDDY RYAN'S FILIBUSTERINGS.

Adventures of a Theatrical Manager's Wife and the Arrest of a Broadway Diamond Broker—A Strange Story Without an End—A Remarkable Denouement Looked For.

Yesterday, at the Tombs Police Court examination room, a young man, gentlemanly in appearance and respectably attired, named William C. Brandon, was brought up, in custody of detective Farley, before Judge Hogan, charged with grand larceny. The circumstances under which the charge is made are remarkable, and are likely to lead to very strange developments before the case is judicially disposed of.

Mrs. Henrietta Freligh, residing at 24 Rutgers street, wife of W. B. Freligh, lessee and manager of the Bowery theatre, is the complainant, and her story in relation to this complaint is another instance of the perversity and eccentricity of woman. She stated to the Justice that a month ago last Saturday she met a man whom she had not known before, in the street, whose name she understood to be "Teddy Ryan;" he introduced himself to her, and she was induced to accompany him to an assignation house, No. 46 Rivington street. She supposes she was drugged while there, for when she came to herself she found that "Teddy" was gone, and also the jewelry which she says she had with her when she went into the house with "Teddy." Mrs. Freligh described the jewelry she had lost as follows:—"A diamond brooch, valued at $250; a pair of earrings, worth $450; five large diamond rings, worth $550; a watch and chain, worth $150—Mr. Freligh gave that for them; a necklace of pearl, worth $30; three stones, worth $25, and a pocketbook, containing coins and notes amounting to $30, making in the aggregate $1,455. My bracelets were left in my pocket."

A CRUEL DECEPTION.

"I thought," said Mrs. Freligh, "that Ryan was a gentleman; but he turned out to be a thief. My husband and I have been trying to find him, but we have not succeeded. Mr. Freligh requested me to offer a reward of $500 for the recovery of the property. A few days ago I heard that some of my jewelry was exposed for sale in Broadway. I went to No. 702 Broadway, and there I identified a cluster diamond ring as a ring that I had lost. I saw Mr. William C. Brandon, the defendant, who occupies the store. He told me that he knew who he had bought the ring from and that he could get the remainder of my jewelry for a consideration. He said that if I would give him $175 he could get my earrings. I told him I would not give any money until I got my property back, and then I would give the reward that was offered. I went to the Central Office and told the facts to detective Farley."

THE RETORT BLUFF.

Brandon denied saying that he could restore her the jewelry.

Mrs. Freligh—I would not swear falsely for double the amount.

Brandon—The least you could say about the matter the better it would be, after being robbed in a bed house.

Mrs. Freligh looked very indignantly and fiercely at Brandon and rushed across to her friend, Mrs. Adams, who was sitting with a detective on the other side of the room. She poured the cause of her indignation into the sympathetic ear of Farley, who went to Brandon and suggested to him to be cautious and not excite Mrs. Freligh by any unnecessary comments.

Farley was sworn and said:—I went with Mrs. Freligh to Mr. Brandon's and got the diamond ring from him; he said he knew who sold it to him and that he could find him in a few days; the time was given to him but he did not find the person; I then arrested him.

Mr. Brandon said:—I got the ring in the regular way of business, and there is an entry of the purchase on my books, with the name of the person selling and the date of purchase. I bought it of a sporting man well known in Broadway.

This was the whole of the evidence. Brandon was then called upon for his informal examination, and in reply said:—My name is William C. Brandon; I am twenty-six years of age; a native of Orange county, in this State; am by occupation a diamond dealer; do business at No. 702 Broadway; I deny the charge made here against me; I wish to be defended by counsel.

There was a short consultation as to the time, Mr. Brandon wishing it for yesterday afternoon, at two o'clock; but that was not convenient for all parties, and it was ultimately fixed at ten o'clock this morning, when Mr. W. F. Howe will appear for the defence.

MRS. FRELIGH'S "MAKE UP."

Mrs. Freligh is a lady of considerable personal attractions, slightly above the middle height, a brunette, with piquant features, rendered more piquant in appearance by a saucy looking black Alpine hat, with feather. She wore a black silk dress, with black velvet mantle, and except when Mr. Brandon cast imputations upon her virtue gave her evidence with remarkable good temper, smiling heartily at her own innocence and simplicity in being taken in by the stranger. Unfortunately for Mrs. Freligh she is not quite a stranger to the Tombs. A short time ago she was sent to Blackwell's Island by Judge Dowling, on the complaint of her husband, for disorderly conduct. Her conjugal life lately has been very infelicitous, and those who know both best say that there are faults on both sides. In any case the examination is likely to show up the worst side of conjugal infelicity.

A TRIUMPH OF RUFFIANISM.

A Man's Throat Cut in a Low Den in Laurens Street—He is Afraid of the "Gang" and Refuses to Prosecute—A Nest of Burglars' Tools.

About seven o'clock yesterday morning roundsman McGloin, of the Eighth precinct, received information that a man named Peter Ragen, a carpenter, residing at No. 66 Thompson street, had been feloniously assaulted in the low saloon of Thomas Kelly, No. 38 Laurens street, a resort for low and abandoned creatures, black and white, of both sexes. Proceeding to the residence of Ragen he found a doctor and a priest in attendance and the injured man suffering from a wound nearly two inches in length on his throat, extending from the chin downward. His head was also mangled fearfully, he being so weak from the loss of blood as to be scarcely able to speak.

After a consultation with the female inmates of the house he ascertained that Ragen came home about one o'clock in the morning suffering from the wounds, his clothes saturated with blood, and stated that while in the saloon of Kelly he got into a row, when a gang of the thieves who are constantly congregating about the place assaulted him, knocking him down on the floor, and while lying apparently helpless Kelly rushed up, drew a knife from his pocket and cut his throat. He finally succeeded in freeing himself from the hands of the ruffians, and, gaining the street, made his way home as best he could, when he fell exhausted from the loss of blood.

The officer, upon the above facts being given him, proceeded to the saloon, where he found the following persons, whom he conveyed to the station house corner of Prince and Wooster streets:—Thomas Kelly, proprietor; James Duffy, Charles Mead, Martin Johnson, James Campbell, Thomas Collins and Henry Carter, the latter a negro. The saloon presented a sickening sight, being besmeared with blood from the wound inflicted on the throat of Ragen. Behind the bar was found a fine set of burglars tools, consisting of a jimmy, braces, punches, chisels, skeleton keys, fuse, powder, a dark lantern, &c., which Mead claimed as his property.

Captain McDermott subsequently visited the injured man at his residence, when he refused to give any information respecting the affray, stating he "did not know who done it; that it was his business and he was the only sufferer." The prisoners were arraigned before Justice Shandley at Jefferson Market later in the day and upon the statements of Captain McDermott were discharged, as no person appeared to prosecute them.